# SUPREME COURT OF THE UNITED STATES.

## No. 174.

THE UNITED STATES, APP'TS,

vs.

GIL YBARRA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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*Transcript of the Proceedings in Case No. 329.*

GIL YBARRA, Claimant,
vs.
THE UNITED STATES, Defendant,

For the place named "Rincon de la Brea."

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this ninth day of September, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Gil Ybarra for the place named "Rincon de la Brea," was presented and ordered to be filed and docketed with No. 329, and is as follows, to wit:

(*Vide* page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, September 21st, 1852.

In case No. 329, Gil Ybarra, for the place named "Rincon de la Brea," the deposition of Manuel Requena, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with annexed document, marked No. 1, was filed:

(*Vide* page 6 of this Transcript.)

LOS ANGELES, October 19th, 1852.

In the same case, the deposition of Ygnacio F. Coronel, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed:

(*Vide* page 5 of this Transcript.)

SAN FRANCISCO, Aug. 18th, 1853.

Case No. 329 called: the counsel for the claimant read the evidence: argued, submitted, and taken under advisement by the Board.

SAN FRANCISCO, December 20th, 1853.

In the same case, Commissioner Thompson Campbell delivered the opinion of the Board confirming the claim:

(*Vide* page 35 of this Transcript.)

(*Petition of Gil Ybarra.*)

To the Hon. the Board of U. S. Commissioners appointed to settle private land claims in California.

The petition of Gil Ybarra respectfully represents to your Hon'l Board, that he is the claimant of a tract of land in Los Angeles county, known as "Cañada de la Brea," bounded on the east by the valley that lies immediately next to the hills belonging to Mr. Bernardo Yorba; at the west by the brook of San Jose; at the north by the highway to Chino, and on the south by the boundaries of Mr. Ontiveras, containing one square league, a little more or less: That the same was granted to your petitioner by Governor Juan B. Alvarado on the 23d day of February, 1841, by virtue of the colonization laws of Aug. 24th, and the instructions and regulations of Nov'r 21st, 1828, and the various laws of Mexico, and the customs of the country affecting grants of land in California: Your petitioner received judicial possession of said land on or about the 24th day of March, 1841, from the proper officer of the then existing District. There is no conflicting claim to said lands, known to your petitioner. Your petitioner herewith files copies of the espediente, judicial possession, and other papers relating to this case, as well as translations of the same, all of which are respectively marked and numbered as exhibits, the originals of said papers being in the possession of your petitioner, ready to be produced and proved.

The evidence upon which your petitioner relies in this case, are the records of this grant in the office of the U. S. Surveyor-General, original papers (copies of which are herewith filed), and to which your petitioner prays leave to refer as part of this petition, and the testimony of witnesses to be produced before your Hon'l Board.

Respectfully submitted for such action as the justice and nature of the claim may require.

E. O. CROSBY,
*Counsel for Claimant.*

Filed in office Sept. 9th, 1852.

GEO. FISHER,
*Sec'y.*

OFFICE OF THE U. S. LAND COMMISSION,
LOS ANGELES, Oct. 19th, 1852.

On this day before me, Hiland Hall, one of the Commissioners

for ascertaining and settling private land claims in California, came Ygnacio F. Coronel, a witness produced on behalf of the claimant, Gil Ybarra, whose petition is No. 329 on the Docket of the Board, and was duly sworn. His evidence being given in Spanish was interpreted by the Secretary. The U. S. Associate Law Agent was duly notified and attended.

In answer to questions by the claimant, the witness testified as follows:

My name is Ignacio Coronel, my age is fifty-eight years, and I reside in Los Angeles. I am acquainted with Gil Ybarra, and have known him ever since the year 1836. I know the Rancho Rincon de la Brea. It was granted to said Ybarra about the year 1840 or 1841. He was in the occupation of it previous to the grant; he had a house on the land, and was living in it at the time the grant was made, and at the time judicial possession was given, and he continues to live on the same place and occupy it to the present time. He has a numerous family and many descendants who occupy it like the occupancy of a town. I gave judicial possession of the land, or assisted in giving it, as stated in a paper now shown, being Exhibit No. 1, annexed to the deposition of Manuel Requena, to which my genuine signature is attached.

YG'O F. CORONEL.

Sworn to and subscribed before me.

HILAND HALL,
*Com'r.*

Filed in office Oct. 19th, 1852.

GEO. FISHER,
*Sec'y.*

(*Deposition of Manuel Requena.*)

OFFICE OF THE CALIFORNIA LAND COMMISSIONERS,

LOS ANGELES, Sept. 21st, 1852.

On this day before Hiland Hall, one of the Commissioners for ascertaining and settling Private Land Claims in California, came Manuel Requena, a witness produced in behalf of the claimant, Gil Ybarra, whose petition is No. 329 on the docket of the Board, and was duly sworn. His evidence being given in Spanish was interpreted by the Secretary of the Com'rs. The U. S. Land Agent was notified and attended.

In answer to questions by the counsel for the claimant, the witness testified as follows:

My name is Manual Requena, my age is fifty-one years, and I reside in the city of Los Angeles; I have resided in California and in this place eighteen years. I am acquainted with the handwriting of Santiago Arguello, Narcisso Botello, Gil. Ybarra, Ignacio M'a Alvarado, Ignacio Coronel, Bacilio Baldez, Juan B. Alvarado, and

Manuel Jimeno. The names of these several persons appearing on a paper now shown me, purporting to be the title paper, with an official copy of the record of judicial possession to Gil Ybarra of Rancho Cañada de la Brea, are, I have no doubt, their genuine signatures; said paper is hereto annexed and marked No. 1. I believe the whole paper is a genuine paper, and what it purports to be. The several persons who signed the paper were holding the offices therein described at the dates which the paper bears.

MANUEL REQUENA.

In answer to inquiries by the law agent, the witness says he came to California in 1834, and since that time the land described in the before mentioned paper has not been in the occupancy of any mission, and that he believes the land is not within ten leagues of the sea-coast.

MANUEL REQUENA.

Sworn to and subscribed before me.

HILAND HALL,
*Com'r.*

Filed in office Sept. 21st, 1852.

GEO. FISHER,
*Sec'y.*

*Posecion á favor de D. Gill Ybarra Año de* 1841.

Sello Tercero dos Reales.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey en el Departamento de los Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO,
[AD'A MARIT'A DE MONTEREY.] *S'or Prefecto de este 2d Distrito.*

ANG'S, M'zo 15 de 1842.

Ocuna el interesado á una de los Jueces de esta Ciudad. quien le dara la posecion juridica q'e Solicita del Sitio llamado "Cañada de la Brea" q'e le ha sido concedido p'r el Gob'o Departamental.

ARGUELLO. NARCISO BOTELLO,
*S'rio.*

Gil Ybarra natural de este Departamento y vecino de esta jurisdicion ante V. S. con el debido respeto hago presente, que el Sup'r Gobr'no del departamento ha tenido a bien libra titulo a mi favor del parage llamado Rincon de la Brea y lugares q'e cita d'ho titulo, que hoy hetenido el deber de presentar a V. S. y necesitando empesar mis trabajos lo mas pronto q'e mesea posible p'a sacar mi ganado del lugar en donde piligra y colocarlo en el parage q'e me ha concedido el Sup'or Gob'no.

A. V. S. Suplica se sirva mandon q'e conscuente a d'ho titulo se me de la posecion ó segundad necesaria p'a poder empezar los trabajos q'e necesito p'a sa adelante y fomento q'e estoy pronto a pagar los costas q'e se originen.

Angeles, 15 de M'zo de 1841.

GIL YBARRA.

ANG'LS, Ma'zo 15 de 1841.

Como lo pido la parte y conforme con el Sup'or decreto marginal f'ha de hoy procedase a la posecion indicada. asi yo el prez que sacube decrete mandé formé con les de asist'a segun d'ho.

IGNACIO M'A ALVARADO.

As'a Y'GO CORONEL.
As'a BACILIO BALDEZ.

Sello Tercero dos Reales.

Habilitado provisionalmente por la Aduana Maritima de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta, y mil ochocientos cuarenta y uno.

XIMENO.

[AD'A MARIT'A DE MONT'Y.] ANTONIO MARIA OSIO.

*B.*

Sello 1o Seis Pesos.

Habilitado provisionalmente por la Aduana Maritima de Monterey para los años de 1839 y 1840.

ALVARADO. ANTONIO M'A OSIO.

Valga f'a los años 1841 y 1842.

OSIO.

[AD'A MARITIMA DE MONT'Y.] JUAN B. ALVARADO, Gobernador Constitucional del Departamento de las Californias.

P'r cuanto el Ciudadano Gil Ybarra ha pretendido para sa beneficio personal y el de en familia el parage conocido con el nombre de la Cañada de la Brea colindante al Este con la Cañada inmediata a las lomas del S'or Bernardo Yerba, al oeste con el Arroyo de San Jose al Norte con el camino real del Chino, y al Sur con los linderos del Señor Ontiveras, practicadas previa'te las diligencias y averiguanciones concemientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana, he venido en concederle el terreno mencionada declarandole la propriedad de el per las presentes letras Sugetandose a la aprovacion de la Ex'ma Junta Depar y a las condiciones Siguientes.

1a. Podra sercarlo sin perpedicar los travesias caminos y Servidumbres; lo disfintara libre y esclusivamente destinadolo al uso ó cultivo qu mos le acomode, pero dentro de un año fabricara casa y estará habitada.

2a. Cuando se le confirme la propriedad Solicitará del Juez respectivo que le de posecion juridica en virtud de este despacho per el cual se demarcaran los linderos, en cuyos limites pendia a mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se hace donacion es de un sitio de ganado mayor poco mas ó menos segun el diceño que corre agregado en el espediente, El Juez que dieu la posecion lo hara meder confirme a ordenanza quedando el sobrante que resulte a la Nacion para los usos convenientes.

4a. Si contraveniere a estas condicions perdera la direcho al terreno y será denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el Libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey a veinte y tres de Febrero de mil ochocientos cuarenta y uno.

JUAN B. ALVARADO.
MAN'L. JIMENO,
*S'ro.*

Queda tomado razon de este despacho en el Libro de acientos sobre adjudicacion de terrenos baldios af'a 4 va.

JIMENO.

ANGELES, Marzo 15 de 1841.

Con estuf'ha queda tomado razon del presente Titulo en el libro respectivo llevado en esta Prefectura af'a 2 f'te.

S. ARGUELLO.
NARCISO BOTELLO,
*S'ro.*

Sello Tercero dos reales.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey en el Departamiento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.

(Correg'da.)

En la Ciudad de Los Angeles del Departamento de las Californias á los veinte y cuatro dias del mes de Marzo de mil ochocientos cuarenta y uno, en cumplimiento al superior decrets marginal su f'ha ocho del mismo mes y año, y anuente a la solicitud del Cuida-

dano Gil Ybarra á fin de que se de la correspondiente posecion del parage nombrado la Cañada de la Brea, concedido por el Gobierno de este Departamiento cuyo titula accompaña á su indicada solicitud. Pasasi por me y testigos de asistencia al espresado sitio, y procedase á duo la correspondiente posecion previa citacion de colindantes, arreglandose al referido titulo ó despacho que se le ha conferido por el Ex'mo Señor Gobernador con f'ha veinte y tres de Febrero del presente año. El Ciudadano Ignacio M'a Alvarado, Juez 2a, de laz de esta ciudad asi lo decreté mandé y firmé por ante los tes-

[Sello Tercero dos reales.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey en el departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

(Correg'da.)

tigos de me asistencia con quienes actuo por receptoria en este papel comun por falta de sellado en la officina, Segun d'ro doy fe.

YGNACIO MARIA ALVARADO.

As'a. Yg'o Coronel.
As'a. Bacilio Baldez.

En veinte y seis de Marzo de mil ochocientos cuarenta y ano, yo el Juez que sucribe pase el aviso ó citacion correspondiente á los Señores D'n Juan Perez, Mayor Domo de la mision de S. Gabriel, D. Jose de la Luz Linares, Don Pacifico Ontiveras, y Don Bernardo Yorba, manifestandoles el objeto á que me dirigia al puerto de la Cañada de la Brea pues iba a remedulo y paner en posecion de ella á Don Gil Ybarra: de estos Señores el unico que manifestó escepcion fue D. Juan Perez, por que pensó que se iba á tomar parte del Rincon de la Puente, al que se le hizó ver que nada mas se tomaba la pura entrada á la cañada entinas se marchó sen ha-

[Sello tercero dos reales.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

(Correg'da.)

[Ad'a Marit'ma de Mont'y.] blar mas, la que pongo por diligencia que autoriso y firmo con los de asistencia segun d'ro.

YGNACIO ALVARADO.

Ass'a, Yg'a Coronel.
Ass'a, Basilio Valdez.

En la propria f'ha yo el Juez estando en la Boca de la Cañada de la Brea, para la practica de estas diligencias nombré dos officiales cordeleros, quienes por no saber firmar se omiten sus nombres á quienes les hise saber su nombramiento, que aceptaron bajo de juramento que ortogaron ofreciendo desempenar fielmente su encargo lo que autorizo y firmo con los testigos de me asistencia segun d'ro.

IGNACIO ALVARADO.

Ass'a Y'GA CORONEL.
Ass'a BASILIO BALDEZ.

En el mismo dia, mes y año estando en la Orilla del arroyo de S. Jose bajo el norte, á efecto de verificar las remedidas y posecion que corresponde á D'n Gil Ybarra del sitio nombrado Cañada de la Brea previas-

[Sello tercero dos reales.

Habilitudo provisionalmente por la Aduana Maritima del puerto de Monterey en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

(Correg'da.)

[AD'A MARIT'A DE MONT'Y.] todos los requisitos de ley y estando auto mi y los testigos de asistencia coma tambien dos oficiales cordeleros hise meder un cordel que contenia cien varas, y atando hacia sus estremos dos Sancos de madera previa observacion y calculo, se tiro el primer cordel des de el punto norte comenzando en el radio ya plano de las lomas contigno al lindero de José de la Luz Linares con direccion al Sur aunque oblicuando la linea, y se contaron y midieron Siete mil varas, que remataron en una loma cerca de los linderos de Bernardo Yorba donde se mandó poner una mojonera. De este punto Sur se cambio la linea tirandola con direccion al Oeste y se contaron y midieron cuatro mil varas q'e remataron en una loma, q'e es la punta del lindero de Pacifico Ontiveras donde tambien se mandó poner una majonera. De este punto se tiró el cordel con direccion al Norte a bajar al radio de las otras lomas, donde-

[Sello tercero dos reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey, en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[AD'A MARIT'A DE MONT'Y.] se midieron y contaron siete mil varas. De hay se tiró el ultimo cordel a cerrar del rumbo Oeste al Este donde se contaron y midieron un mil varas, que remataron en el lindero de José de la Luz Linares, en cuyo sitio se le im-

puso a Ybarra pusiese sus mojoneras, habiendo comparecido los colindantes en sus respectivos terrenos para su satisfaccion y seguridad, sin hacer objecion q'e estorbase las medidas, las que quedaron cehas a satisfaccion del interesado, a quien se le reiteró la ordén de que no faltase a poner las mojoneras en los sitios marcados en señal de su posecion advertiendole igualmente no perjudicase el Rincon de la Puente aunque se alla algo distante lo q'e autorizo y firmo con mis testigos de acistencia segun d'ro Ygnacio Alvarado, ass'a, Ygnacio Coronel, ass'a, Basilio Valdez, tachaso donde tambien no vale.

De se le testimonio á la parte de los presentes diligencias q'e se hallan ya concluidas. Asi yo Ygnacio M'a Alvarado, Juez 2o de Paz, decreté, mandó y firmé segun d'ro, con los-

[Sello Tercero dos Reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[AD'A MARIT'A DE MONT'Y.] de mi asistencia. YGNACIO M'A ALVARADO. Ass'a, YGNACIO CORONEL. Ass'a, BASILIO VALDEZ.

Concuerda con su original á q'e me remito del cual esta fielmente sacado, corregido y confrontado en estas seis fojas de papel sellado y se halla en el libro de instrumentos publicos del presente año.

En testimonio de verdad.

YGN'O M'A ALVARADO.

Ass'a BASILIO VALDEZ.
Ass'a YGN'O CORONEL.

Nota. Se sacó el testimonio en la f'ha.

Filed in office Sep'r 21st, 1852.

GEO. FISHER, *Sec.*

(*Translation of Espediente.*)

Third class stamp, two-eighths of one dollar. Issued provisionally by the maritime customs of the Port of Monterey in the Department of the Californias for the year eighteen hundred and forty and eighteen hundred and forty-one.

JIMENO. ANTONIO MARIA OSIO,
[L. S.] *Hon. Prefect of this District.*

ANGELES, March 15, 1841.

Let the party in interest present himself to one of the judges of

this city, who will give him juridical possession, which he claims of the tract known as Cañada de la Brea, which has been granted to him by the government of the Department.

Angeles. NARCISO BOTELLO,
*Sec'y.*

I, Gil Ybarra, native of the Department and a citizen of this District, before your Honor with due respect do represent, That the Supreme Government of the Department has seen fit to make grant in my favor of the tract known as Rincon de la Brea and premises mentioned in said title, which I have duly presented to your Honor this day, and as I need to commence my labors as soon as possible to withdraw my cattle from the spot, where it is endangered, and place it on the tract which the supreme government has granted me, I solicit you to be pleased to order that, agreeably with said title, I may receive the possession or necessary security in order to be able to commence the labors which are required for improving and forwarding the place; and I am ready to pay the costs which may be occasioned.

Angeles, March 15th, 1841.

GIL YBARRA.

ANGELES, March 15, 1841.

In conformity with the petitioner's request, and according to the superior decree in the margin, dated this day, let the possession aforesaid be given. So decreed and ordered by me, the undersigned judge, and I subscribe the same with the attesting witnesses according to law.

IGN'O M'A ALVARADO.

Attest: YGN'O CORONEL.
Attest: BASILIO VALDEZ.

First class stamp six dollars. Issued provisionally by the maritime customs of Monterey for the years 1839 and 1840.

ALVARADO. ANTONIO M'A OSIO.
L. S. Good for the years 1841 and 1842. OSIO.

JUAN B. ALVARADO,
*Constitutional Governor of the Department of the Californias.*

Whereas the citizen, Gil Ybarra, has claimed for his own benefit and that of his family the tract known as Cañada de la Brea, bounded on the east by the valley that lies immediately next to the hills belonging to Mr. Bernardo Yorba; at the west by the brook of San Jose; at the north by the highway to Chino, and at the south by the boundaries of Mr. Ontiveros, the proper steps and investigations having previously been taken according to laws and regulations, by virtue of the powers vested in me, in the name of the Mexican nation, I do grant to him the said tract, declaring the same

to be his property by these presents, subject to the approval of the Most Excellent Departmental Assembly, and to the following conditions:—

1st. He may fence it without prejudice to crossroads, highroads, and rights of way; he shall enjoy it freely and exclusively, devoting it such use or culture as may suit him best, but within one year he shall erect a house, which shall be dwelt in.

2d. When his title shall have been confirmed, he shall solicit the judge having jurisdiction to give him juridical possession by virtue of this deed: such judge shall mark out the boundaries, in the lines of which shall be placed besides the landmarks some fruit trees, or useful forest trees.

3d. The tract hereby granted consists of one range (sitio) for large cattle, a little more or less, according to the design annexed to the minutes of the proceedings (Espediente). The judge who gives the possession will cause it to be measured according to law, any remainder there may prove to being reserved to the nation for its use and behoof.

4th. In case of non-compliance with these conditions, he shall lose his right to the land, and it may be denounced by another. Wherefore, I order that this title-deed being held as firm and valid, be recorded in the proper book and delivered to the party in interest for his protection and other purposes. Given at Monterey, February 23d, 1841.

JUAN B. ALVARADO.
MAN'L JIMENO,
*Sec'y.*

Recorded this title in the book of entries concerning grants of waste lands at p. 4, etc.

JIMENO.

ANGELES, March 15th, 1841.

On this date the present title is recorded in the proper book belonging to this Prefecture, p. 2, &c.

S. ARGUELLO.
NARCISO BOTELLO,
*Sec'y.*

Third Class Stamps, Two-eighths of One Dollar.

Issued provisionally by the maritime customs of the port of Monterey in the Department of the Californias, for the years 1840 and 1841.

XIMENO. ANTONIO M'A OSIO.

L. S.

At the city of Los Angeles, in the Department of the Californias,

on the twenty-fourth day of the month of March, eighteen hundred and forty-one, in compliance with the superior marginal decree, dated the eighth of same month and year, and vouchsafing the petition of the citizen Gil Ybarra, to the effect that due possession be given of the tract known as *Cañada de la Brea*, granted by the Government of this Department, the title-deeds whereof are annexed to his said petition: Ordered that I repair with my attesting witnesses to the said premises and proceed to give due possession after summons to the owners of neighboring lands in conformity with said title or patent granted to him by his Excellency the Governor, dated the twenty-third of February of the present year. I, the citizen Ignacio M'a Alvarado, 2d Justice of the Peace of this city, so decreed, ordered, and subscribed in presence of

L. S. (Stamp Clause.)

my attesting witnesses, our proceedings being noted on common paper, there being no stamped paper in the office, which I certify according to law.

IGNACIO MARIA ALVARADO.

Attest: IG'O CORONEL.
Attest: BASILIO BALDEZ.

On the twenty-sixth of March, eighteen hundred and forty-one, I, the undersigned Judge, sent the requisite notice or summons to Mess. Don Juan Perez, Stewart of the Mission San Gabriel, Don José de la Luz Linarez, Don Pacifico Ontiveras, and Don Bernardo Yorba, informing them of my motive for going to the place called Cañada de la Brea, viz: that I was going to remeasure it and give possession to Don Gil Ybarra. The only one of those gentlemen who made objection, was Don Juan Perez, because he thought a part of the Rincon de la Puente was going to be taken. It was shown to him that nothing was to be taken but the mere entrance to the valley; whereupon he left without making any other remark,

L. S. (Stamp Clause.)

which I note, certify, and subscribe with the attesting witnesses according to law.

IGNACIO ALVARADO.

Attest: IGNACIO CORONEL.
Attest: BASILIO VALDEZ.

On the same date, I, the Judge, being at the mouth of the valley of the Brea, for the performance of these proceedings, appointed two official line bearers, whose names are omitted on account of their not knowing how to sign. I informed them of their appointment, which they accepted, taking the oath of office, whereby they

undertook to perform their duties faithfully, which I certify and subscribe with my attesting witnesses, according to law.

IGNACIO ALVARADO.

Attest: IG. CORONEL.
Attest: BASILIO VALDEZ.

On the same day, month, and year, on the bank of the brook of San José, on the north side, for the purpose of making the remeasurements and duly give possession to D'n Gil Ybarra of the tract called Cañada de la Brea:

(L. S.) (Stamp Clause.)

Having first complied with all the requisites of the law, I caused to be measured in my presence, and that of the attesting witnesses, likewise in presence of two official line bearers, a line one hundred varas in length, and after fastening to its extremities two wooden poles, and making observations and calculations, the first line was run from the north point, beginning in the radius where the hills become smooth, contiguous to the boundary of Jose de la Luz Linares, in a southerly direction though on an oblique line, there were counted and measured seven thousand varas, which terminated at a hill near the boundary of Bernardo Yorba, where a corner mark was ordered to be placed. From this south point the line was changed, running in a westerly direction; these were counted and measured four thousand varas, which terminated at a hill, which is the corner of the boundary of Pacifico Ontiveras, where also a corner mark was ordered to be placed. From this point the line was run in a northerly direction, towards the radius of the other hills where ( L. S. Stamp Clause) there were measured and counted seven thousand varas. Thence the last and closing line was run from west to east, where there were counted and measured one thousand varas, which terminated in the boundary of Jose de la Luz Linares, at which place Ybarra was ordered to place his corner marks: the neighbors appeared at their respective lands for their own satisfaction and protection, without making any objection that could disturb the measurements, which were made to the satisfaction of the party in interest, to whom was reiterated the order not to fail to place corner marks at the places indicated in sign of his possession, he being notified likewise, not to prejudice the Rincon de la Puente, although this place is at a considerable distance; which I certify and subscribe, with my attesting, witnesses, according to law.

IGNACIO ALVARADO.

Attest: IGNACIO CORONEL.
Attest: BASILIO VALDEZ.

Effaced the words *donde tambien*, which form no part of the list.

Let certified copy be issued to the party in interest of these proceedings, which are now closed: I, Ignacio M'a Alvarada, 2d Justice of the Peace, do so decree, order, and subscribe according to law, with my attesting witnesses.

(L. S. Stamp Clause.):

IGNACIO M'A ALVARADO.

Attest: IGNACIO CORONEL,
Attest: BASILIO VALDEZ.

A true copy of the original, to which I refer, from which it was faithfully taken, corrected, and collated in these six sheets of stamp paper: said original is to be found in the book of Public Documents of the present year.

In testimony of truth.

IG'O M'A ALVARADO.

Attest: BASILIO VALDEZ.
Attest: IG'O CORONEL.

*Note.* The certified copy was taken on this date.

Filed in office Sept. 9th, 1852.

GEO. FISHER,
*Sec'y.*

*Espediente Promovido por el Ciudadano Gil Ibarra en solicitud del parage conocido con el nombre de "Cañada de la Brea."*

[1841. 222.]

[For map see original, page 22.]

Sello Tercero Dos Reales.

[AD'A MARIT'A DE MONT'Y.] Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO,
*S'r Prefeto de este distrito.*

(*Exhibit No.* 1.)

ANG'S, Enero 7 de 1841.

Informe el Sor Juez 2° de Paz de esta ciudad si el terreno—q'e se menciona esta valdio y si pertenece á la propiedad de algun particular ó corporacion asi como si el solicitante tiene los requisitos prevenidas p'a ser atendido y vuelva á esta Prefectura p'a sus ultimos traintes.

ARGUELLO. NARCISO BOTELLO,
*S'rio.*

Gil Ybarra natural y vecino de este Departam'to ante V. S. con el debido respeto digo: Que los bienes de campo de mi propiedad, con q'e cuento p'a atender á la subsistencia de mi dilatada familia, los tenguo en terrenos de esta comunidad que por muy immediatas á la publacion estan espuestos á los eccesos de los malechores que me lo acaban sin poderlo yo ebitar y p'a con cerbarlos me es preciso sacarlos de donde estan y retirarlos mas y hallandose ahora valdio un pedaso de terreno que antes ocupaba la Mision de San Gabriel llamedo Cañada y Lomas de la Brea y consta del diseño adjunto.

A V. S. ocurro en solecitud de d'ho parage p'a que tenga a bien mandar formar el esped'te respectivo; y elevar esta sumisa esposicion al Sup'or Gob'no del Departam'to a tin de que si lo tiene á bien mande se me libre el titulo de estilo, que estoy pronto á pagar los gastos q'e se originen.

Ang's, D'bre 29 de 1840.

GIL YBARRA.

S. Pref'o del 2° Distrito.

El terreno q'e solicita el recino D. Gil Ybarra estay impuesto pertenece á la Mision de San Gabriel y igualmento lo he visto q'e se halla valdio con respecto á si tiene el solicitante los requisitos prevenidos por reglamentos se que los tiene por lo que V. S. dispose dra lo conv'te.

Ang's, En'o 8 de 1841.

YGN'O M'A ALVARADO.

ANG'E, En'o 8 de 1841.

Pase este Esped'te al R. P. Mtro de la Mision de San Gabriel, p'a que esponga cuanto convenga al derecho de aquella Comunidad, y vuelva p'a los demas fines consiguientes.

ARGUELLO. NARCISO BOTELLO,
*S'rio.*

Sello Tercero Dos Reales.

[AD'A MARIT'A DE MONT'Y.] Habilitado provicionalmante por la Aduana marítima del puerto de Monterey, en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO M'A OSIO.

San Gabriel 13 de Enero de 1841.

No hay embarazo por este establecimiento p'a q'e al solicitante Gil Ybarra se le conseda el parage llamado la Cañada de la Brea con apercivimiento, de q'e reforme su diseño arreglado á lo que ubiese valdio en el parage q'e solicita, pues el diseño q'e acompaña solo es imaginario.

FR. THOMAS ESTENAVA. JUAN PERES.

ANGELES, Enero 14 de 1841.

Vuelva el presente Expediente al interesado, para q'e reforme el diseño sugetandose á lo q'e unicamente quedare valdio del terreno q'e solicita, conforme lo pide el R. P. Mtro y Mayordomo de la Mision de S'n Gabriel y concluido, vuelva a esta Prefectura para los demas fines consiguientes.

ARGUELLO. NARCISO BOTELLO,
*S'rio.*

Ex'mo S'or.

La Prefectura de de este 2o Distrito impuesta del presente exped'te y reformado ya el diseño conforme lo pidio el R. P. Mtro y Mayordomo de la Mision de San Gabriel con presencia de dos individuos puestos para ello p'r parte de d'ho establecimiento, cré que no hay inconveniente alguno p'a q'e se le conseda al interesado el citio q'e solicita, pues q'e a mas de ser un vecino honrado cargado de familia, tiene los bienes de campo suficientes p'a cubrirlo y demas requisitos prevenidos p'r la Ley p'a ser atendido; en la intelig'a q'e es veridico lo q'e espone en su solicitud respecto a los perjuicios q'e recibe en sus bienes de campo por no tenor un parage propio a donde reducirlos; en tal virtud V. E. dispondra lo q'e fuere de su Sup'or agrado.

Angeles, Febrero 1o de 1841.

S. ARGUELLO.

NARCISO BOTELLO,
*S'rio.*

Monterey, 23 de Febrero de 1841.

Vista la peticion con q'e da principio este esped'te el informe del Juez 2o de la ciudad de Los Angeles el del R. P. Mtro de San Gabriel en union del Mayordomo del mismo establecim'to, y el del S'or Prefecto del 2o Distrito, con todo lo demas que se tuvo presente y ver comvino, de conformidad con las leyes y reglamentos de la materia; declaro a D'n Gil Ybarra dueño en propiedad del terreno conocido con el nombre de Cañada y Lomas de la Brea, colindante al Este con los linderos o Lomas de D'n Bernardo Yorba, al Oeste con el Arroyo de San José, al norte con el camino del Chino y al Sur con los linderos del S'or Ontiveras en estencion de un Sitio y medio de ganado mayor poco mas o menos. Estiendase el Despacho correspond'te tomese razon en el libro respectivo, y dirijase este esped'te a la Ex'ma Junta Departamental. El S'or D'n Juan B. Alvarada Gobernador Constitucional del Departam'to de Californias asi lo mandé, decrete y firme de que doy fée.

JUAN B. ALVARADO, Gobernador Constitucional del Departamento de las Californias.

Por cuanto el Ciudadano Gil Ybarra, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre

de Cañada de la Brea, colindante el Este con los linderos o lomas de D'n Bernardo Yorba, el Oeste con el Arroyo de San José, al norte con el Camino del Chino, y al Sur con los linderos del S'or Ontiveras: practicadas previamente las diligencias y averiguaciones consernientes segun lo dispuesto por leyes y reglamentos usando de las facultades q'e me son conferidas a nombre de la nacion Mejicana, he venido en concederle el terreno mencionado declarandole la propiedad de el por los presentes letras, y sujetandose a la aprovacion de la Ex'ma Junta Departamental y ó las condiciones siguientes.

1a. Podra cercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutara libre y esclusivamente pero dentro de un año fabricara casa y estará havitada.

2a. Solicitará del Juez respectivo, q'e le de posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondra á mas de las mojoneras algunos arboles frutales ó silvertres de alguna utilidad.

3a. El terreno de que se hase donacion es de uno y medio Sitio de ganado mayor poco mas o menos, segun esplica el diceño q'e corre en el expediente respectivo. El Juez q'e diere la posecion lo hará medir conforme á ordenanza, que dando el sobrante q'e resulte á la nacion para los usos convenientes.

4a. Si contraviniese á estas condiciones, perdera su derecho el terreno y sera denunciable por otro.

En consecuencia mando q'e teniendose por firme y valedero este Titulo se tome razon de el en el libro respectivo y se entregue al interesado p'a su resguardo y demas fines.

Dado en Monterey á treinte y tres de Febrero de mil ochocientos cuarenta y uno.

OFFICE OF THE SURVEYOR-GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the ten preceding and hereunto annexed pages of tracing paper numbered from one to ten inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office), at the city of San Francisco, Cal., the 22d day of September, A. D. 1852.

SAM'L D. KING,
*Surv.-Gen'l. Cal.*

Filed in office August 8, 1853.

GEO. FISHER,
*Sec'y.*

(*Exhibit No.* 3.)

*The Sketch.*

Third class stamp, two eighths of one dollar—issued provisionally by the maritime customs of the port of Monterey in the Department of the Californias, for the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

JIMENO. ANTONIO MARIA OSIO.

[L. S.]

Ang's, Jan'y 7, 1841.

Let the 2d Justice of the Peace of this City report whether the tract in question is unoccupied, and whether it belongs to the property of any individual or corporation, and likewise whether the petitioner has the legal requisites to entitle his petition to be entertained, and let this be returned to this Prefecture for further action.

ARGUELLO. NARCISO BOTELLO,
*Sec'y.*

To the Hon. Prefect of this District:

I, Gil Ibarra, a native and resident of this Department, before your Honor with the due respect do say that I am the owner of cattle on which I rely for the support of my large family, and that I keep the same on the commons of this place, where, on account of their neighborhood to the town, they are exposed to the evil doings of wicked persons, who destroy them, without being able to prevent it; and in order to preserve my said cattle, I am obliged to remove them from where they are and place them further away. And as there is now a piece of land unoccupied, which the mission of San Gabriel formerly occupied, called Cañada y Lomas de la Brea, shown by the annexed design, I occur to your Honor as a petitioner for such tract, requesting you to order the appropriate proceedings to be instituted, and this submissive statement to be forwarded to the Sup'or Government of this Department, to the end that, if deemed meet, a grant in the usual form may issue. I am ready to pay the costs which may be occasioned.

GIL IBARRA.

Ang's, Dec. 29, 1840.

To the Hon. Prefect of the 2d District:

The tract solicited by the resident, Don Gil Ibarra, to my knowledge, belonged to the mission of San Gabriel, and I have likewise seen that it is unoccupied. As to whether he possesses the requisites provided by the regulations, I know that he does possess them. Wherefore your Honor will dispose what you may deem proper.

IG'O M'A ALVARADO.

Angeles, Jan. 8th, 1841.

Let this minute be forwarded to the Rev. Father, Minister of the Mission of San Gabriel, that he may state whatever behooves the rights of that community, and let return be made for the subsequent purposes.

ARGUELLO. NARCISO BOTELLO,
*Secr'y.*

[L. S.] Stamp clause as above.

SAN GABRIEL, Jan. 13, 1841.

There is no objection on the part of this Establishment to the petitioner, Gil Ibarra, obtaining concession of the tract called Cañada de la Brea, provided that he corrects his design, limiting it to the extent that is unoccupied in the tract he claims, for the design he annexed is merely imaginary.

FR. THOMAS ESTANEGA.
JUAN PERES.

ANGELES, January 14, 1841.

Let the present minutes be returned to the party in interest that he may correct the design, limiting himself merely to the unoccupied part of the tract he solicits, in compliance with the request of the Rev. Father Minister and Mayordomo of the mission of San Gabriel; after which, let return be made to their Prefecture the other subsequent ends.

ARGUELLO. NARCISO BOTELLO,
*Secretary.*

Most Excellent Sir:

The Prefecture of this 2d District, having taken cognizance of the present minutes, and the design being now corrected agreeably to the request of the Rev. Father Minister and Mayordomo of the mission of San Gabriel, in presence of two individuals placed for that purpose on the part of said establishment, believes that there is no obstacle to the petitioner obtaining the grant of the tract he solicits, since, besides being a resident of good character with a large family, he has stock enough to cover it, and the other requisites provided by the law to entitle his request to be entertained, with the understanding that he states the truth in regard to the losses he suffers in his stock on account of not having premises of his own wherein to keep the same; wherefore your Excellency will take such disposition as may meet your superior pleasure.

S. ARGUELLO. NARCISO BOTELLO,
*Secretary.*

Angeles, Feb. 1st, 1841.

MONTEREY, 28d, 1848.

In view of the petition, wherewith these proceedings originate, the report of the 2d judge of city of Los Angeles, that of the Rev.

Father Minister of San Gabriel, together with the mayordomo of the same establishment, and that of the Hon. Prefect of the 2d District, with everything beside, that was brought forward and it was proper to keep in view in conformity with the laws and regulations affecting the matter, I do declare Don Gil Ibarra absolute owner of the tract known by the name of Cañada y Lomas de la Brea, bounded east by the boundary or hills of D'n Bernardo Yorba; west by the Arroyo of San José; north by the road to Chino, and south by the boundaries of Mr. Ontiveras, containing one and a half square leagues (sitio de ganado mayor) a little more or less. Let the appropriate patent be made out, entered of record in the proper book, and let these minutes be forwarded to the most Excellent the Departmental Assembly. I, Juan B. Alvarado, Constitutional Governor of the Californias, have so ordered, decreed, and subscribed, which I certify.

The Grant.

Filed in office Aug. 8, 1853.

GEO. FISHER,
*Sec'y.*

(*Opinion of Board by Com. Campbell.*)

GIL IBARRA
vs.
THE UNITED STATES. } Cañada de la Brea—one square league. Los Angeles County.

The claim in this case is founded on a grant made to the petitioner by Governor Alvarado, bearing date the 23d of February, A. D. 1841. The signatures of Alvarado and Jimeno attached to said grant, are proved to be in their handwriting. The claimant has filed as evidence in this case a record of juridical possession, properly proved and authenticated, which shows that the premises in question were, on the 26th of March, A. D. 1841, judicially measured and the proper bounds placed. It is proved by the deposition of Ignacio Coronel that the petitioner was in the occupation of said premises previous to the date of his grant; that he had a house on the land and was living in it at the time the grant was made and at the time judicial possession was given, and that he continued to live upon and occupy said place up to the time of taking his deposition. The deponent further states, that the petitioner has a numerous family, who occupy said place like the occupancy of a town. There is no proof of any approval by the Departmental Assembly. On the hearing of this case it was objected by the law agent, that the proof showeth, that the house was built before the grant was made, which he insisted was not a compliance with that condition of his grant which required a house to be built within one year from the issuing of the grant. I look upon this objection as being merely technical; the object of the law was to secure the actual residence of the grantee on the land, and for the purpose of giving to such

residence a permanency, a house was required to be built, and the party was required to live in it. If the grantee had gone upon the land before he had obtained his grant and built a house, and lived in it after he had received his grant, continued to live in it and thus occupy the land, in my judgment this should be considered a full and ample compliance with that condition of his grant which required a house to be built within a year from the date of the grant. The policy which the government had in view is not to be overlooked in the construction of those acts by which that policy was carried into practical effect.

The testimony in this case is of the most satisfactory character in regard to the actual inhabitancy of the land by the grantee within the prescribed time.

It commenced with the grant and has continued ever since. The party sought the land for grazing purposes; actual inhabitancy was therefore indispensable, and without it the condition which the law annexes to every such purpose would have been unperformed. The grant was for one square league, to be located within certain exterior boundaries, marked out on a map furnished by the petitioner, with a reservation of a surplus to the nation. The juridical measurement, which the party has shown, was made at his solicitation, has designated with sufficient certainty the boundaries of the tract claimed, so that there will be no difficulty in the officer locating the precise league of land granted. The party is therefore entitled to a confirmation of his claim.

Filed in office Dec'b'r 20th, 1853.

GEO. FISHER,
*Sec'y.*

GIL IBARRA
vs.
THE UNITED STATES.

On hearing the proofs and allegations adduced in this case, it is adjudged by the Commission that the said claim of the petitioner is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made, are known by the name of "Cañada de la Brea," and are the same now occupied by Gil Ibarra and other members of his family, and bounded and described as follows, to wit: Beginning at the north point in the radius where the hills become smooth, contiguous to the boundary of Jose de la Luz Linares, and running in a southerly direction though in an oblique line seven thousand varas to a hill near the boundary of Bernardo Yorba, where there is a corner mark; thence running in a westerly direction four thousand varas to a hill, which is the corner of the boundary of Pacifico Ontiveras, where is a mark; thence running in a northerly direction towards the radius of the other hills seven thousand varas; thence running

from west to east one thousand varas to the place of beginning, at the boundary of the said José de la Luz Linares, containing in all one square league. Reference for further description to be had to a map which is made part of document marked Exhibit No. 1, and filed in this case, and also to document marked Exhibit "B" and filed in the cause.

ALPHEUS FELCH.
THOMPSON CAMPBELL.
R. AUG. THOMPSON.

Filed in office Dec. 20th, 1853.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing thirty-eight pages, numbered from 1 to 38, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 329, on the docket of the said Board, wherein Gil Ibarra is the claimant against the United States, for the place known by the name of "Rincon de la Brea."

In testimony whereof, I have hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this twelfth day of September, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

GEO. FISHER,
*Sec'y.*

UNITED STATES DISTRICT COURT,
*Southern District of California:*

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing 39 pages, numbered from 1 to 39 both inclusive, contain a full, true, and correct copy of transcript No. 329 filed in this office, wherein Gil Ybarra is appellee and the United States are appellants for "Rincon de la Brea."

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Los Angeles, California, this sixth day of December, A. D. 1855, and of the Independence of the United States of America the eightieth.

[SEAL.]

C. E. CARR,
*Cl'k.*

DISTRICT COURT OF THE UNITED STATES,
*Southern District of California:*

CLERK'S OFFICE, LOS ANGELES.

GIL YBARRA
vs.
THE UNITED STATES. } Docket Number 85.
Transcript No. 329.

Be it remembered that in the above entitled cause, on appeal to the District Court of the United States for the Southern District of California in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle Private Land Claims in California—

The following proceedings were had, to wit:—

Transcript from the Board of Commissioners in said case No. 329 on the docket of said Board, filed and marked No. 85 on the docket of this Court.

(*Vide* page 1.)

Notice of intention to prosecute appeal by the Attorney-General, filed Jan'y 10, 1855.

(*Vide* page 3.)

Upon which said notice the following subsequent proceedings were had in their chronological order, to wit:—

Petition for review by U. S. Dist. Att'y, filed Aug't 13th, 1855.

(*Vide* page 3.)

Answer to petition for review, filed Oct. 10th, 1855.

(*Vide* page 8.)

Decree of Court affirming the claim.

(*Vide* page 9.)

Order of Court granting appeal to the Supreme Court of the United States.

(*Vide* page 10.)

OFFICE OF THE ATTORNEY-GENERAL OF THE UNITED STATES, WASHINGTON, 30th November, 1854.

GIL YBARRA
vs.
THE UNITED STATES. } 329.

You will please take notice that in the above case decided by the Commissioners to ascertain and settle Private Land Claims in the

State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August, 1854, the appeal in the District Court of the United States for the Southern District of California, will be prosecuted by the United States.

(Signed) C. CUSHING,
*Attorney-General.*

Filed Jan'y 10th, 1855.

(Signed) C. E. CARR,
*Cl'k.*

IN THE DISTRICT COURT OF THE UNITED STATES
*for the Southern District of California:*

LOS ANGELES COUNTY, STATE OF CALIFORNIA.

GIL YBARRA ads. THE UNITED STATES. } No. 85 (Transcript No. 329).

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the Southern District of California.

The petition of Pacificus Ord (of Los Angeles county), Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, represents as follows:—

That heretofore, to wit, on or about the 9th day of September, A. D. 1852, Gil Ybarra presented a petition to the Commissioners to ascertain and settle the Private Land Claims in the State of California, claiming the tract of land called "Cañada de la Brea," in the county of Los Angeles, in the words and figures following, viz:—

"The petition of Gil Ybarra respectfully represents to your Hon'l Board that he is the claimant of a tract of land in Los Angeles county, known as 'Cañada de la Brea,' bounded on the east by the valley that lies immediately next to the hills belonging to Mr. Bernardo Yorba, at the west by the brook of San José, at the north by the highway to Chino, and on the south by the boundaries of Mr. Onteveras, containing one square league, a little more or less: that the same was granted to your petitioner by Governor Juan B. Alvarado on the 23d day of February, 1841, by virtue of the colonization laws of Aug't 24th, and the instructions and regulations of Nov'r 21st, 1828, and the various laws of Mexico, and the customs of the country affecting grants of land in California. Your petitioner received juridicial possession of said land on or about the 24th day of March, 1841, from the proper officer of the then existing district. There is no conflicting claim to said land known to your petitioner. Your petitioner herewith files copies of the Expediente, juridicial possession, and other papers relating to this case, as well as translations of the same; all of which are respectively marked and num-

bered as exhibits, the originals of said papers being in the possession of your petitioner ready to be produced and proved.

"The evidence upon which your petitioner relies in this case are the records of this grant in the office of the U. S. Surveyor-General, original papers (copies of which are herewith filed), and to which your petitioner prays leave to refer as part of this petition, and the testimony of witnesses to be produced before your Hon'l Board.

"Respectfully submitted for such action as the justice and nature of the claim may require."

Your petitioner further represents that thereafter, to wit, on the 20th day of December, A. D. 1853, the said Commissioners confirmed, by final decree, the said claim of the said Gil Ybarra in the words and figures following, to wit:—

"On hearing the proofs and allegations adduced in this case it is adjudged by the Commission that the said claim of the petitioner is valid, and it is therefore decreed that the same be confirmed. The lands, of which confirmation are hereby made, are known by the name of 'Cañada de la Brea,' and are the same now occupied by Gil Ybarra and other members of his family, and bounded and described as follows, to wit: Beginning at the north point in the radius where the hills become smooth, contiguous to the boundary of Jose de la Luz Lenares, and running in a southerly direction through in an oblique line seven thousand varas, to a hill near the boundary of Bernardo Yorba, where there is a corner mark; thence running in a westerly direction four thousand varas, to a hill, which is the corner of the boundary of Pacifico Ontiveras, where is a mark; thence running in a northerly direction towards the radius of the other hills seven thousand varas; thence running from west to east one thousand varas to the place of beginning at the boundary of the said Jose de la Luz Linares, containing in all one square league, reference for further description to be had to a map which is made part of document marked Exhibit *I*, and filed in this case, and also to document marked Exhibit *B*, and filed in the cause.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON.

That therefore, to wit, on the 20th day of September, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 85 (Transcript No. 329), reference to which it is prayed may be had and made a part of this petition.

That on the 30th day of August, A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of said final decision and

proceedings of said Commissioners in said cause (No. 329), and the papers and evidence on which said decree was founded. And that thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney-General of the United States filed or caused to be filed, on behalf of the United States, a notice with the said Clerk of said District Court for the Southern District of California, that the appeal in said cause of Gil Ybarra *vs.* The United States, from the decision of the said Commissioners to ascertain and settle the Private Land Claims in the State of California in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents that the said land claimed as aforesaid, is within the jurisdiction of this Honorable Court.

And your petitioner further represents and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said Commissioners to this Honorable Court.

And your petitioner further represents that the said claim is invalid, and the said decree erroneous on the following grounds:

I. And the said attorney denies all and singular each and every allegation in the petition of said claimant to said Commissioners of said date. And he further denies that any grant for said land was ever made, as alleged in said petition. And he denies, further, that the said claimant has shown any or sufficient evidence of the validity of the said claim.

II. That the said alleged grant of Juan B. Alvarado was made in violation of the 4th Article of the Colonization Law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted as alleged by claimant, was and is within ten leagues of the sea-coast, and there is no evidence shown by claimant that the Supreme General Executive power of Mexico previously approved of the colonization of the public land in Upper California, lying within ten leagues of the sea-coast. And it is denied that such previous consent of said Supreme General Executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grant the land claimed as aforesaid, was occupied by, and in the possession of the Missions of the Territory of Upper California; and it was held and occupied particularly by the Mission of San Gabriel, and could not therefore be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th day of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico of the 21st of November, A. D. 1828.

V. That the description of the locality, extent, and boundaries

of the land in the said alleged grant of the date of the 23d February, 1841, and the map referred to therein, is vague and indefinite; and the said alleged grant is void for uncertainty.

VI. That there is no evidence that the said alleged grant of said date was ever approved by the Departmental Junta of California, or the Supreme Government of Mexico, and it is denied that it was ever approved by said Departmental Junta, or said Supreme Government.

VII. That said claimant shows no definitive grant or title for said tract of land.

VIII. That the said alleged juridical possession given on or about the 24th or 26th of March, 1841, was unlawful, for the reason that the said alleged grant had not then been approved by the said Departmental Junta of California, as required by the conditions of the said alleged grant, nor had it been approved by the said supreme government of Mexico.

IX. That the said alleged juridical possession of said date was not made according to the said alleged grant, and the map referred to therein; nor according to the ordinance or law, and it is vague, indefinite, and void.

X. That there is no sufficient evidence that the said claimant performed the conditions of the said alleged grant, and that he built a house upon the said tract of land, and that it was inhabited within one year from the date of the said alleged grant, and that he cultivated the said tract of land; and it is denied that he performed the conditions of the said alleged grant; and that he built a house upon the said tract of land; and that it was inhabited within one year from the date of the said alleged grant, and that he cultivated the said land.

And no sufficient proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon; but the said petition ought to have been dismissed, and said claim rejected by said commissioners, upon the grounds aforesaid. And the said claimant having no valid right or title, derived from the Spanish or Mexican government, to the said land claimed by him, as aforesaid, the lawful right or title in and to the said land was acquired by, and it now belongs to the said United States by virtue of the treaty of peace, friendship, limits and settlement with the Republic of Mexico, dated at the city of Guadalupe Hidalgo, February 2d, 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California, approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said Gil Ybarra may be served with a copy of this petition,

and that the Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of the said Gil Ybarra for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid, and all such other orders, judgments or decrees as may be just, with costs and general relief.

(Signed) P. ORD,
*Attorney of the United States for the Southern District of California.*

Filed August 13th, 1855.

(Signed) C. E. CARR,
*Clk.*

U. STATES DISTRICT COURT
*for the Southern District of California:*

GIL YBARRA ads. THE UNITED STATES. } No. 85. (Transcript No. 329.)

The respondent for answer to the petition filed in this cause, answers and says: It is true that the land mentioned in said petition, and in transcript of the proceedings before the said Board of Commissioners, lies within said Southern District of California, and within the jurisdiction of this Court.

But this respondent denies that his title to the said lands is invalid, and avers that his title is valid, and prays that the decision of the said Board be affirmed, and his title be decreed to be valid.

(Signed) E. O. CROSBY,
*of Counsel for Appellee.*

Filed Oct. 10th, 1855.

(Signed) C. E. CARR,
*Clk.*

THE UNITED STATES, Appellants, vs. GIL YBARRA, Appellee. } No. 85. "Rincon de la Brea."

DISTRICT COURT OF THE UNITED STATES,
*Southern District of California:*

This cause coming on to be heard at a special term of this Court, on an appeal from the final decision of the Commissioners to ascertain and settle Private Land Claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the decision and proceedings, and the papers and evidence on which said decision was founded, and it appearing that said tran-

script has been duly filed according to law, and counsel for the respective parties having been heard, It is ordered, adjudged and decreed, that the decision of the said Commissioners be affirmed, and that the claim of the said Gil Ybarra to the land described in the grant in this case is a good and valid claim, and the same is hereby confirmed to the extent of one square league; Provided, that the quantity of one square league be contained within the limits called for in said grant and map to which it refers; but if there be less than said named quantity, then the claim of said appellee to said less quantity is hereby confirmed.

(Signed) ISAAC S. K. OGIER,
*U. S. Dist. Judge for the Southern District af California.*

IN THE U. STATES DISTRICT COURT
*for the Southern District of California:*

Special Term, Sept. 1855. Los Angeles.

GIL YBARRA, App'ee, ads. THE UNITED STATES, App't. } No. 85. (Transcript No. 329.)

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court against the United States in the above entitled cause, rendered on or about the 11th day of October, A. D. 1855.

(Signed) P. ORD,
*U. S. Dist. Att'y.*

Filed Jan'y 10th, 1855.

(Signed) C. E. CARR,
*Clerk.*

UNITED STATES DISTRICT COURT,
*Southern District of California:*

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing 10 pages, numbered from 1 to 10, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the Decision of the said Court, of the documentary evidence, and of testimony of witnesses upon which the same is founded, on file in this office in case No. 85, on the docket of the said Court,